



Docket No.: Y1929.0085

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Shinichi Morimoto

Application No.: 09/963,261

Confirmation No.: 8415

Filed: September 26, 2001

Art Unit: 2134

For: LAN that allows non-authenticated external  
terminal station to access a predetermined  
device in LAN

Examiner: M. J. Simitoski

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT  
BASED ON FAILURE TO PAY THE ISSUE FEE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

It is respectfully requested that the Notice of Abandonment mailed February 29, 2008, be withdrawn and the time to respond to the Notice of Allowance and Issue Fee Due originally mailed October 2, 2007, be restarted so that the enclosed Issue Fee payment can be entered.

This Petition is being submitted on the grounds that the Notice of Allowance and Issue Fee Due, dated October 2, 2007, was never received.

A Notice of Allowance and Issue Fee Due was mailed in the above-identified patent application on October 2, 2007 to Applicant's representative. However, Applicant's representative never received this Notice of Allowance and

05/13/2008 SZEWDIE2 00000040 09963261

03 FC:1464

130.00 OP

Issue Fee Due and was therefore unaware that a response was due. Applicant became aware of the Notice of Allowance and Issue Fee Due when Applicant's attorney received a Notice of Abandonment resulting from the failure to respond to the outstanding Notice of Allowance and Issue Fee Due.

M.P.E.P. § 711.03(c)(II) provides that where Applicant's Petition to Withdraw a Holding of Abandonment is adequately supported, the Office may grant the Petition and re-mail the Office action. Applicant's Petition will be adequately supported under § 711.03(c)(II) where Applicant provides (1) "a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received"; and (2) a "copy of the docket record where the non-received Office communication would have been entered had it been received and docketed." The copy of the docket record must be attached to and referenced in the practitioner's statement.

Applicant files herewith a Declaration by practitioner Ian R. Blum (Reg. 42,336) stating that the Notice of Allowance and Issue Fee Due, mailed October 2, 2007, was not received by anyone in practitioner's law firm, it would have been entered in the law firm's docketing records. Mr. Blum's Declaration further attests that a search of the file jacket and the docket records indicates that the Notice of Allowance and Issue Fee Due was not received.

Further, Mr. Blum's Declaration sets forth the standard business practice with regard to Office Actions and other correspondence from the PTO.

The Dickstein docket record where the non-received Notice of Allowance and Issue Fee Due would have been entered, had it been received and docketed or present in the file jacket, is attached as Exhibit A to Mr. Blum's Declaration. Specifically, Exhibit A shows the Dickstein docket records for every matter docketed for January 2, 2008 (the deadline for responding to the Notice of Allowance and Issue Fee Due). A review of these docketing records shows that no deadline for Docket No. Y1929.0085 was docketed for January 2, 2008.

Applicant also files herewith a Supplemental Declaration of Henrietta Marron, who maintains the docket at Dickstein, attesting that if anyone in the docketing department at Dickstein had received the Notice of Allowance and Issue Fee Due, mailed October 2, 2007, it would have been entered into the law firm's docket records. The fact that the Notice of Allowance and Issue Fee Due does not appear on Dickstein's docket records indicates that Dickstein did not receive the Notice of Allowance and Issue Fee Due and that the Notice of Allowance and Issue Fee Due was not present in the file jacket.

For the foregoing reasons, Applicant respectfully requests that this Petition be granted and that the Notice of Allowance and Issue Fee Due be re-mailed and the time to respond thereto be restarted.

The Patent Office is hereby authorized to charge our credit card for the \$130.00 petition fee. PTO Form 2038 is enclosed.

The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with

Application No.: 09/963,261

Docket No.: Y1929.0085

any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-2215.

Dated: May 9, 2008

Respectfully submitted,

By

Ian R. Blum

Registration No.: 42,336

DICKSTEIN SHAPIRO LLP

1177 Avenue of the Americas

New York, New York 10036-2714

(212) 277-6500

Attorney for Applicant

IRB/mgs